

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

15-0761

HB 668-FN, *relative to expense deductions under the business profits tax.*

House Ways & Means Committee

This bill seeks to increase the Internal Revenue Code (IRC) Section 179 expense deduction allowed under NH's business tax from \$25,000 to \$100,000.

In order to do a fiscal analysis, the Department of Revenue Administration used all business taxpayer records that have been filed for Tax Year 2013, as of January 26, 2015. The amount of each taxpayer's IRC Section 179 expense was analyzed to identify who had between \$25,000 (the current deduction limit) and \$100,000 (the proposed deduction limit). Each taxpayer's amount was multiplied by their apportionment percentage and then multiplied by the tax rate of 8.5% to calculate the fiscal impact.

Had this legislation been in place for Tax Year 2013, there would have been a reduction in revenue of at least \$4,722,522 (rounded to \$4,723,000). The \$4,723,000 reduction in revenue could be even higher once all Tax Year 2013 returns have been filed and the impact of this law change analyzed for those taxpayers as well.

Assuming all facts and circumstances would be the same in FY2016 as they were for the filing of the Tax Year 2013 returns, this \$4,723,000 reduction is estimated as a reduction in revenue for FY2016. One could expect similar losses in subsequent years.

The Department notes that this bill would take effect upon passage and apply to tax periods beginning January 1, 2015. Many taxable periods begin on some date other than January 1st. The Department would suggest the language be "this act shall apply to any qualifying section 179 property as that term is defined in the United States Internal Revenue Code with respect to property placed into service on or after January 1, 2015."

The Department also notes, Line 6 of the proposed law states, "...but not to exceed \$100,000 per calendar year." The use of the term "per calendar year" could be an issue for taxpayers and for the Department to administer. Many taxpayers are fiscal year filers and some file several short period returns in a single calendar year. The Department recommends that the proposed \$100,000 deduction replace the current \$25,000 deduction on Line 4 and not include the "per calendar year" reference.

This could be administered by the Department without any additional cost that could not be absorbed within our current budget.